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REMARKS

Claims 1-39 are in the application.

Claims 1-39 stand rejected.

Claims 1 and 19 stand rejected under 35 USC 102 as anticipated by U.S. Patent 6,360,376 ("Carrington").

Claims 2 and 4 stand rejected under 35 USC 103(a) as unpatentable over Carrington in view of U.S. Patent 6,025,287 ("Hermann").

Claims 5-8, 10, 12-15, 17, 21, 23-26, 30-33, 35 and 37 stand rejected under 35 USC 103(a) as unpatentable over U.S. Patent 3,906,548 ("Kallis") in view of Carrington.

Claims 9, 11, 16, 18, 20, 22, 27, 29, 34, 36, 38, and 39 stand rejected under 35 USC 103(a) over Kallis in view of Carrington and further in view of U.S. Patent 6,025,287 Hermann.

The Examiner has not provided any basis for the rejection of claim 3.

Claim 1 recites:

A sweat band, comprising:
a hydrophilic foam core; and
a moisture wicking fabric covering said foam core, said moisture wicking fabric being disposed to contact the head of a wearer of said sweat band.

The Examiner in rejecting claims 1 and 19 states:

Claims 1 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Carrington (US 6,360,376). Carrington teaches a sweat band having a hydrophilic foam core 20 made of PVC with nitrile rubber which is hydrophilic. The fabric covering 52 is made of 65% polyester which provides moisture wicking properties which is in contact with the head of the wearer.

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At the outset, Carrington does not disclose, teach or suggest a sweat band. Carrington is directed to a protective hat and not a sweat band. Since claim 1 is directed to a sweat band, and Carrington fails to disclose, teach or suggest a sweat band, Carrington does not anticipate claim 1 under 35 USC 102.

It is also respectfully submitted that Carrington neither discloses, teaches or suggest a hydrophilic foam core nor does Carrington disclose, teach or suggest a moisture wicking fabric.

The Examiner is apparently relying on Carrington's description at col. 5, line 40 where the following description is provided:

The cores 20 and 28 are ideally made from dimensionally stable, chemically inert, highly impact resistant material. One suitable material, which is presently used is sold by Uniroyl, Inc. under the trademark Ensoble, type AA. It comprises a closed cell foam of specially modified PVC with nitrile rubber. The material is a cross-linked polymer capable of withstanding repeated impact/recovery cycles, and has a density of between about 4.0 and 6.0 lbs./cu. ft., a thermal conductivity of 0.26, a 25% compression resistance of 5.0 to 7.0 psi at 70° F., a 50% compression set, maximum, of 12.0%, a maximum linear shrinkage of 3.0%, a minimum tensile strength of 100 lb./sq. in. and a minimum cold crack of 10 degrees F. Other equivalent foams can be used. The cores 20 and 28 can have thicknesses of about 3/8 inch to 1 inch, as is explained below.

There is no disclosure here or elsewhere in Carrington that the core 20 (or core 28) has hydrophilic properties. The Examiner's mere statement that the foam core is hydrophilic is not supported at any point in the disclosure of Carrington. There is no suggestion that the shock absorbent foam is hydrophilic.

For this additional reason, claim 1 is not disclosed, taught or suggested by Carrington.

Still further, it is respectfully submitted that the Examiner mischaracterizes the disclosure of Carrington with respect to "wicking material."

Column 4 of Carrington states:

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The material from which the shell pieces 50, 52, 54 and 56 are made may be any suitable fabric. In one presently preferred form of the invention, the material used for the shell pieces is a broadcloth of 65% polyester and 35% cotton. Such a material provides a desirable degree of durability and soil resistance, as well as an acceptable feel and conventional appearance. It has been found desirable to cut the inner shell pieces on the bias, whereas the outer shell pieces are advantageously straight of grain. Water-resistant nylon and other fabrics or materials may be used depending upon the desired application.

A broadcloth of polyester and cotton is not a moisture wicking material, but rather is a water absorbing material and Carrington does not disclose, or suggest the use of any moisture wicking material.

Still further, Carrington's teaching of "water-resistant nylon" is a teaching away from a moisture wicking material, since by definition, if the material is water-resistant, it can not be moisture wicking.

A moisture wicking material is one which "wicks" the moisture away from the moist surface.

As clearly set out in Applicant's specification:

[0024] Sweat band 100 includes a sweat band portion 101, an adjustment portion 103 and one or more attachment portions 105. Sweat band portion 101 is formed from a piece of moisture wicking fabric 111 such as COOLMAX® which is a high tech fabric available from Dupont. This fabric is made from specially engineered polyester fibers with an increased surface area. The surface 101a of the fabric 111 in contact with skin pulls moisture away from the skin to its opposite surface.

This is contrasted with the broadcloth fabric that is described in Carrington that absorbs and holds moisture much like a sponge or the "water resistant nylon" that is described which does not hold or wick moisture at all. Neither the broadcloth fabric nor water resistant nylon pulls moisture away from one surface to the opposite surface, i.e., neither is a wicking fabric.

For this additional reason, claim 1 is not disclosed, taught or suggested by Carrington.

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For all the same reasons that claim 1 is not disclosed, taught or suggested by Carrington, claim 19 is likewise not disclosed, taught or suggested by Carrington.

Claims 2-4 all depend from claim 1 and add further limitations. For the same reason that claim 1 is not anticipated by Carrington, claims 2-4 are not shown, taught or made obvious by Carrington in combination with Herman.

Claims 20-22 all depend from claim 19 and add further limitations. For the same reason that claim 19 is not anticipated by Carrington, claims 20-22 are likewise not shown taught or made obvious by Carrington in combination with other references.

Claims 5-8, 10, 12-15, 17, 21, 23-26, 30-33, 35 and 37 stand rejected under 35 USC 103(a) as unpatentable over U.S. Patent 3,906,548 ("Kallis") in view of Carrington.

Claim 5 recites:

A sweat band for use in a helmet, said helmet comprising a suspension web disposed therein, said suspension web including a headband, said sweat band comprising:

a sweat band portion comprising:

a hydrophilic foam core; and

a moisture wicking fabric covering said foam core;

an attachment portion coupled to said sweat band portion for releasable affixing said sweat band portion to the suspension web of a helmet.

The Examiner cites Kallis for teaching a helmet having a cushion 40 and an attachment portion 42. The Examiner acknowledges that Kallis does not teach "the cushion portion comprising a hydrophilic foam core and a fabric covering said foam core." The Examiner cites Carrington as teaching a cushion comprising "a hydrophilic foam core 20... and a fabric 50...covering foam core 30 (sic)."

Claim 5 recites "a moisture wicking fabric covering said foam core." **As pointed out with respect to claim 1, Carrington fails to disclose, teach or suggest the use of a wicking fabric; Carrington fails to disclose, teach or suggest a hydrophilic foam core; and Carrington fails to disclose, teach or suggest a sweat band.**

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Kallis likewise fails to show, teach or suggest the use of a wicking fabric. Accordingly, claim 5 is not shown, taught or made obvious by the references taken singly or in combination.

Claims 6-11 depend from claim 5 and add further limitations. For the same reason that claim 5 is not disclosed, taught or made obvious by the references taken singly or in combination, claims 6-11 are likewise not disclosed, taught or made obvious by the references taken singly or in combination.

Claim 12 recites "a moisture wicking fabric covering said foam core." As pointed out with respect to claims 1 and 5, Carrington fails to show, teach or suggest the use of a wicking fabric.

Kallis likewise fails to show, teach or suggest the use of a wicking fabric. Accordingly, claim 12 is not disclosed, taught or made obvious by the references taken singly or in combination.

Claims 13-18 depend from claim 12 and add further limitations. For the same reason that claim 12 is not disclosed, taught or made obvious by the references taken singly or in combination, claims 13-18 are likewise not disclosed, taught or made obvious by the references taken singly or in combination.

Claim 23 recites, inter alia:

said fabric cover comprising a moisture wicking fabric, said moisture wicking fabric wicking moisture contacting its outer surface to said foam core

Claim 30 recites, inter alia:

said fabric covering comprising a moisture wicking fabric, said moisture wicking fabric serving to wick moisture contacting its outer surface to said foam core

Claim 37 recites, inter alia:

a moisture wicking fabric covering said foam core, said moisture wicking fabric being disposed to contact the head of a wearer of said head covering

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For the same reason that claims, 1, 5, 12, and 19 are not shown, taught or made obvious by the references taken singly or in combination, claims 23, 30 and 37 are likewise not shown, taught or made obvious by the references taken singly or in combination.

Claims 24-29 depend from claim 23; claims 31-36 depend from claim 30; and claims 38-39 depend from claim 37 and for the same reason that the parent claims are not shown, taught or made obvious by the references taken singly or in combination claims 24-29, 31-36 and 38-39 are likewise not shown, taught or made obvious by the references taken singly or in combination.

Based on the foregoing, all the claims are allowable. Reexamination and reconsideration are requested. It is further requested that the claims be allowed and this application be passed to issue.

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Respectfully submitted,

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